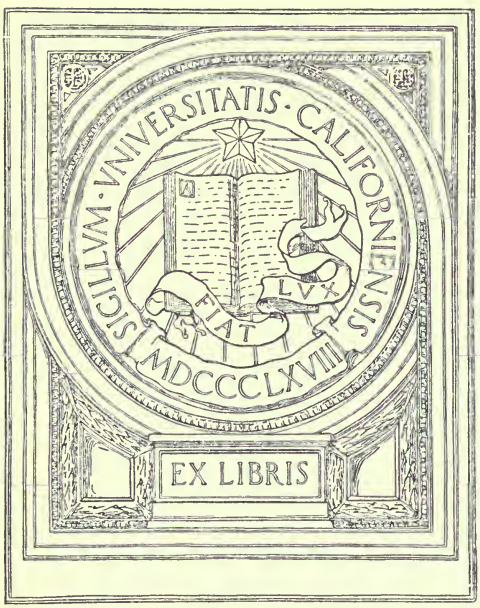
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THE TRIAL OF EZEKIEL CHEEVER

BEFORE THE CHURCH AT NEW HAVEN.

[The following account of the trial of Ezekiel Cheever, before the church at New Haven, is printed from a cotemporary manuscript, supposed to be by Cheever himself; it was furnished for publication by Mr. Charles H. Morse, of Cambridgeport, Mass.]

1649.

Upon the Lord's day, being the 13th day of the 3d month, in the reading of the offences, for which W. Thorpe was censured, there appeared several particulars which he charged the elders withal, which were reduced to two heads, namely, partiality and usurpation; the Church called him, to see if he could make them good, the Elders were ready to give their answer according to God; he answered that he was so far from making them good as that he saw it his great sin in charging them so unjustly. The Church then agreed to manifest their public clearing of them by their vote, and all the brethren did give their vote to clear them of the same, only three withdrew, and did not vote, neither to the affirmative, nor to the negative, which, being taken notice of, was offensive not only to the Church, but to some that are not of the Church. Br: Cheever, being desired to give his reason, said, he chose rather to answer in his own words. And being desired to express himself, he said, he apprehended the Elders had walked faithfully according to their light, but refused to clear them of partiality, and so left the Elders under an unjust suspicion, as if they were guilty; at which carriage the brethren were offended, and since the Lord's day, sundry of them have delivered a writing to the ruling Elder,

manifesting their offence against Mr. Cheever, out of which he hath drawn some particulars.

Offences against Mr. Cheever, for which he was first questioned, and then censured, 20th of 3d mon: 49.

1. His uncomely gestures and carriage before the Church, in the mixed assembly, were offensive both to the Ch., and to some that are not of the Ch. Witnessed by br: Lindall, br: Francis Newman, br: Will. Basset, and br: Morris, what those carriages and gestures were are afterward expressed, which is contrary to I Cor., 14: 40, Let all things be done decently and in order, also contrary to Lev. 19: 30, Ye shall reverence my sanctuary.

2. That when the Ch. did agree to clear the Elders by vote of those two charges, (namely of usurpation and partiality,) he did not give his vote either to the affirmative or to the negative, which being observed, he was asked why he did not vote with the Ch. in clearing the Elders, he answered, he rather made choice to answer in his own words, saying, he apprehended the Elders had walked faithfully according to their light, but would not say he cleared them of partiality, and so injuriously leaves the Elders under a suspicion, as if they were guilty, and afterward he involved the Ch. under the same suspicion, saying that he did not separate the Ch. from the Elders. His not voting with the Ch. either affirmatively or negatively, is a disorder, and hath the appearance of a contempt, which is offensive to the Ch., and to some that are not of the Ch., which is against the 9th Commandment, as it leaves them under suspicion of guilt: as it is against the Ch. and Elders, it is against the 5th Commandment: as it is a disorder, it is contrary to I Cor., 14: 40, Let all things be done decently and in order: as it is an offense to the mixed assembly, it is contrary to I Cor., 10: 32, Give no offence to Jew, nor Gentile, nor to the Ch. of God: as it hath appearance of contempt, it is contrary to the I Cor., 2: 22, Despise you the Ch. of God: and as he injuriously leaves them under suspicion of

the guilt of usurpation, it hath a degree of the sin of Corah, Num., 16: 3., You take too much upon you, wherefore lift ye up yourselves above the congregation of the Lord.

3. They look upon him under offence for laying the Ch: under a great blemish, with an untruth, saying, that what he now spake, he did speak to the Ch: in their private meeting and it did satisfy, yet notwithstanding they are now unsatisfied. But sundry of the brethren affirm that they were not satisfied, and some expressed themselves not satisfied with what he then spake on this point. Br: Munson, br: Crane, br: Lindall, br: Fran: Newman, br: Cooper. All these, and several others, affirm they were not satisfied, and the ruling Elder expressed himself not satisfied.

This is a slander, and so a sin against the 9th Com., and as it is a sin against the Ch: it is a sin against the 5th Com.

Besides these, there are other offences of a very high nature, which he gave at a meeting wherein were some of the Ch: and some of the Town, who being much grieved, some of them brought a writing to the ruling Elder, out of which he drew these particulars following.

1. That at a meeting of divers men and women intended for edification, after the repeating of the sermons, there was a question propounded, and spoken to by br: Boykin, namely, how brotherly love might be continued. Br. Boykin in his speech shewed that the hindrance of it was pride; after he had done speaking, he desired that any other then present, would speak further to the question; br: Cheever then said, that seeing it was desired, though he was not prepared, yet he would deliver his present apprehensions, and in his speech said, another hindrance of brotherly love was tale-bearing, and making things public which were secret.

The whole drift of his speech was to strengthen his own

Witness of speech to question, F. Newman, Br: Boykin, Sr. Tuttle.

opinion, (which what it is will afterward appear,) and to reprove those that were not of his mind in that point, he was very earnest, (and that with much vehemency of spirit,) that things secret should be kept secret, and said that it was an unbrotherly carriage for any to reveal it, alledging 18 Mat: to prove it, and said if any would reveal any case that was secret, they must be able to show an express rule from Christ by which they are allowed to make known that case, which speeches of his did much unsatisfy sundry that were present. After he had done speaking, there was another question propounded touching that which Mr. Cheever had spoken, in the agitation thereof Mr. Cheever did maintain that if three persons hearing one and the same thing from one and the same man at three several times, they are all but one witness, and so no competent testimony to prove it.

Witnesses to this latter part, Good: Judson, Mr. Ling, and Jarvis Boykin. This is not only a doubtful disputation and so contrary to Rom., 14: 1, but a dangerous error, and in the nature of it a stumbling block, and an occasion of falling, contrary to Rom., 14: 21.

2. That after much agitation and light held forth by the rest of that meeting who declared their dissent, br: Cheever did not only remain confident in his apprehension, but in the close of the conference, desired that the question might be considered, and spoken to at another meeting, but at the next meeting at which br: Cheever was present, which was about six weeks after, he at first seemed to be a stranger and ignorant of the thing, which some of the company much wondered at, after that when a brother shewed himself troubled and offended that br: Cheever should defend so dangerous a position in such a public meeting, br: Cheever asked him, why he might not speak his apprehensions as well as the brother his, he was answered, he might so long as he attended rule, but he might not vent

what he pleased in such a meeting. It was told him Mr. Davenport had cleared this point in public, and what he held did contradict it, Mr. Cheever said, he owned all Mr. D. delivered in public, it was told him, then he must own what they did affirm, he said no, for he did not speak to this case.

Witnessed by Mr. Ling, G. Judson, Mr. Peirce, Jarvis Boykin, and Fr: Newman.

He that prophesieth though by gift, he that propoundeth or speaketh to questions in such a meeting, should consider and see he do it to edification. I Cor., 14: 3, 26, but this is contrary thereunto.

3. That when some in the company declared their apprehensions with some confidence for the truth against his error, br: Cheevers wondered at them, asked if they thought themselves had all the light, affirmed that there were some, whom both he and they ought to reverence, that were of his judgment in this matter, and added that some in the Town, wiser than they, knew his judgment, and yet did not carry it toward him as they did. Which carriage of his in the nature of it tendeth to unsettle them from the truth they held, to draw them to a more favorable opinion of his error, and by degrees to corrupt them in judgment and practice, which is the way and work of a seducer.

Witnesses. Jarvis Boykin, Mr. Ling, Fra: Newman and Good. Judson.

This is reproved I Cor., 15: 33, Evil words corrupt good manners.

5. Br: Cheevers that he may express his meaning more fully, puts a case at the said meeting, Suppose a man call another knave to one person this day, to a second to-morrow, to a third the next day, upon what day can you prove the man called the other knave, for each day had but one witness. He was answered that in such a case the day (or moment of time) is but a circumstance, the reproach or defamation may be proved by three witnesses; br: Cheever

denied it, wherein he opens a gap for all slanderous whisperings, without limit or restraint.

Witness. Mr. L., Mr. P. G. J. J. B. F. N.

Which sin of whispering is forbidden in the members of the Ch: in the II Cor., 12: 20, nay, in heathens, I Rom: 29.

5. When he was told, that if this be a truth, God hath provided no way to punish the sin of whispering. He answered out of Prov., 25: 23, As the north wind driveth away rain, so doth an angry countenance a backbiting tongue; when it was told him, that might prevent, or stop it, but not punish it, he answered some sins must be kept secret, and left to the Lord to reveal them in his own time, alledging Eph., 5: 12, It is a shame to speak of those things, which are done of them in secret, which text is quite beside the scope of this discourse. And by this opinion of his he doth maintain and teach that this malignant sin of whispering, while it is kept between man and man, to how many single men soever it spread, and of how dangerous consequence soever it be, is neither to be censured by a Ch: nor punished by a civil Court, which latter may appear more fully by what followeth.

Witn: Mr. L. Mr. P. G. J. J. B. F. N.

This is a breach of the 3d Com. perverting scripture to serve his own turn.

6. In this agitation, br: Cheever mentioned the case of W. Playne of Guilford, a man condemned and executed for much unnatural filthiness &c., as if it had been a secret miscarriage, suiting the question, he was wished to hold to the case and see what it would make for his opinion, and was told there was never two witnesses together at any time, when Plaine acted his filthiness, which at first put br: Cheever to a stand, but he soon replied, there might be more in it than he knew; he was told, that holding his opinion, he condemned the court's proceedings: br: Cheever answered, because the court doth a thing, ergo, it is

true, it was replied, The Court hath done it, ergo by your opinion it is false. Br: Cheever answered, he would not meddle with the Court's matters, but added, what if all the world affirm a thing, is it therefore true; himself (he said) had been of the same judgment with those that now dissented from him, but he saw such convincing reason as altered his judgment, he could not withstand it; it was answered, he must not leave scripture, and take up reason. In all of which he shews too much of an overweening conceit of his own sufficiency, undervaluing Court, and world, if they cross his conceits; he spake not only slightly of the Court of Magistrates in such a meeting, contrary to 5th Com., but his opinion and dispute reflects censure upon them, if Plaine were condemned upon never so many single witnesses, with each of which he had committed unnatural filthiness alone.

Wit: the same as before.

7. The company present disliking both his opinion and his stiffness in maintaining it, put a case to him, Suppose three women testify, each for herself against one man, that he hath abused her (and so each of them) by an adulterous fellowship, whether three such testimonies of one and the same act, committed by one and the same man, would not prove him an adulterer. Br: Cheever answered, that was a gross act; being asked, whether he still held his opinion, he said, he would not answer; he was told by one of the meeting, who is not of the Ch: of necessity this apprehension must be laid down, if it be continued and admitted, it will produce dangerous consequences, he answered we must attend rule, and not consequences. Wherein besides his stiffness, endeavoring to hold up an opinion full of unavoidable absurdities, he gives not due honour to the wisdom of God in the Scriptures, whose perfect rules duly attended will prevent all such dangerous consequences, and by which all such sins so discovered may duly be punished. All which evils are further aggravated in that, neither in either

of the two conferences, nor in the close of the latter, though there were six weeks time between the meetings, he did not sufficiently witness against the abominableness of such practices, nor warn those that heard him to beware of fellowship therein, but rather seem to teach them how to secure themselves and one another from censure and punishment for the same; wherein he falls under the sentence of Christ, Mat., 5: 19, He that breaketh one of the least of these Commandments, and teacheth men so, he shall be called the least in the kingdom of heaven; yea at the last meeting he gave greater offence than at the first.

Offensive words spoken against the Ch: first testified by W. Thorpe.

1. He saith that br: Cheever and he speaking about Mrs. Eaton, why she did not come to the Ch:, W. Thorpe said, that was, because she was not fit to give the Ch: satisfaction, Br: Cheever answered, the Ch: had more need give her satisfaction for the wrong they did her in not letting her come to the Church.

Br: William Pecke, and br: R. Hill in the mixed assembly testified, that he spake the same to them.

This is a slander of a high nature, and so a breach of the 9th Com: and as it is against the Ch: it is a breach of the 5th Com.

2. Another time W. Thorpe and br: Cheever speaking together about the Elders preparing matters for the ch: br: Cheever said, We have nothing to do now but to say Amen, we are all Clerks now.

Br: W. Pecke in the mixed assembly testified, that br: Cheever said these words to him also.

And himself in debate of the thing, granted, that he had spoken these words, as may afterward appear.

This is a slander against the Ch: and against the Elders, and so a breach of the 9th Com: likewise it is a breach of the 5th Com., contrary to these rules. I Cor., 11: 22, Despise you the Ch: of God. I Tim., 5: 19, Against an

Elder receive no accusation under two or three witnesses. But you raise an accusation. It is also a partaking in that sin of Miriam, for which the Lord would have her cast out of the camp, Numb., 12: 2, Hath the Lord indeed only spoken by Moses, hath he not spoken by us, v. 14, if her father had spit in her face, should she not be ashamed seven days, let her be shut out of the camp seven days.

After the first charge against br: Cheever was read, the ruling Elder desired that the brethren, who had observed and were offended with his carriage, in the assembly would declare what his carriage and gestures were. Br: H. Lindall and br: W. Basset affirmed, that his carriage was to them very offensive, they were ashamed that it should be such in so public an assembly, one while holding down his head into the seat, then laughing or smiling. Br: F. Newman said one while he wrapped his handkerchief about his face, and then pulled it off again. Br: Morris affirmed his carriage was offensively uncomely: three of them affirmed, that he rather carried it as one acting a play, than as one in the presence of God, in an ordinance.

Br: Cheever (being desired to answer) said, that his holding down his head might be from the pain of headache, with which he is often troubled; he was asked if his head did then ache, and how his smiling or laughing could agree with such a pain; but he could answer to neither, but said, he took no notice of his own gestures, nor of any levity of spirit, nor of any carriage suiting a stage-play. But for the gestures or outward actions mentioned, by which men must judge, himself judged them as neither suiting his person, nor work in hand, and he should account it a mercy from God, if he had more command of his outward gestures; his objecting the aching of his head, which he could not affirm to be at that season, nor could tell how to make it suit with his smiling or laughing, did rather increase the offense.

To the 2d, br: Cheever answered, that being loth to dis-

turb the peace of the Ch: he held up his hand to neither vote; had he that light in the case which Mr. Davenport this day held forth, he could have held up both his hands to clear the Elders of partiality. He wished, if any man could, he would charge him, that he had so much as suspected the Elders to have turned aside wittingly and willingly from any case in hand with respect of persons. Whereupon Br: Boykin told him, that upon the 2d day last, which was May 14, '49, another and himself told him that they wondered that he and some others should lay such a blur upon the elders, though in truth the greatest blur was upon themselves; to which br: Cheever answered, that br: Boykin, and the other with him did not know so much as others do; but (said he) the Ch: knoweth that myself and some others did differ from them, in the cases of Mr. Perry, and James Russill. Br: Cheever acknowledged that br: Boykin spake truth. It was asked how he could intimate such a charge then, and now so clear them, he answered, he can now clear them, though he could not then, he answered, he knew well that was partiality, which our Pastor this day held forth to be partiality but withal he thought partiality had a further extent; being wished to give his definition of partiality, he said, that different carriages in several cases, when himself could not see the reason, to him seemed partiality; he was answered, that the rule rightly understood and applied must determine what is partiality, not the erring apprehension of a prejudiced brother. Br: Cheever asked who must judge of the rule, it was answered, the rule must be cleared up by itself, or by scripture light, but in this case the Ch: would judge of the rule upon their account to Christ, and not a private brother under offense.

To the third charge he answered, that he supposeth it will be granted that no other answer was required from him, he therefore thought the Ch: was satisfied. The ruling Elder, and divers of the brethren professed that

they expressed themselves unsatisfied with what he held forth in the private Ch: meeting, and he was wished to consider further of it, so that they saw not how he could say the Ch: was satisfied without violation of truth.

Concerning his offensive conference and dispute in two several meetings, at which some of the Ch: and some of the Town were present, he answered that had he had a copy of the charges, he should have been better able to give answer, he added it is difficult for him to remember the several expressions and connections of one thing with another, the leaving out of some thing spoken may make the rest appear worse than it was. Some of the Ch:, and some of the Town now present did witness before the assembly, that the things charged (though more largely, yet) were delivered in that manner, and to that purpose, and br: Cheever was wished that if he knew any thing left out, or misplaced to his prejudice, to express it. Whereupon br: Cheever spake something of the occasion of that part of the conference which concerns him and his carriage in it, and urged the 18 Mat: for a private dealing in all cases of whispering, he was told that whispering may sometime be of so dangerous a nature, and of so mischievous concernment to the public, that it can neither safely be concealed, nor admit such a private dealing as Mat. 18 calls for, when the offense is but against a private brother. Then he urged Deut., 17: 15, One witness shall not rise up against a man &c., he was told that several witnesses agreeing fully in the matter and persons concerning whom they testified, though the whisperer will admit but of one witness at a time, do yet in this case equal two or three together.

Lastly br: Cheever excepted against that passage in the second charge, where they say, he remained confident in his apprehension, whereas he spake according to the best of his present light; but his confidence was testified by divers present at that first meeting, and was further evidenced, after much agitation, toward the close of the second meet-

ing by his own express words telling them, he had been of the same judgment with them, but he saw such convincing reason as altered his judgment, he could not withstand it.

When the former charges had been seriously considered, and the case ready for censure, the Elders declared their judgment, and held forth light to the Ch: for an admonition, and divers of the brethren manifested their consent. The ruling Elder was bringing it to vote, but then br: Gilbert desired to know, whether those two charges made by W. Thorpe were sufficiently proved, and should be put into the censure, he was answered, till the proof be more full and satisfying those two charges will not be put into the censure, though many of the brethren being unsatisfied with his carriage and answers about them, the Ch: must leave them with him to be further considered of in the fear of God. Hereupon br: W. Pecke desired to know, whether br: Cheever did deny that he had spoken the things charged by W. Thorp. It was answered that he had, and still doth affirm, that he remembers not, that at any time, nor in any place, he had spoken these words, or any words to that purpose, to W. Thorpe. Whereupon br: Pecke informed the Ch: that br: Cheever had spoken the same to him, br: Cheever being desired to answer, said, that the word Clerks, was used by him in his speech with br: Pecke, but whether in a way of supposition, or affirmation, he saith (in a late conference between br: Pecke and himself about this matter) br: Pecke could not tell, but the two particulars charged upon br: Cheever by W. Thorp being read, br: Pecke testified, that br: Cheever spake the same words or to the same purpose to him. Br: Cheever was wished not to cast mists, and dally thus before Christ, and his Ch:, but to answer directly to this charge of br: Peck's. He acknowledged that the notion of Clerks, was not new to him, he did believe he might have spoken to that purpose to br: Pecke, and others, though he

did not remember to whom particularly. He was told that the substance of the charge, namely, that the brethren are but Clerks, is about the Town, he was therefore wished to consider (besides the reproach cast upon the Ch:) whether he had dealt uprightly, and according to his light, (without some reservation, or warping by reason of his corrupt opinion in the case of whispering, or some sinful liberty taken to deny (against his knowledge) what is testified but by one witness, in the case of W. Thorp, who is so clear and confident in his charge, that if called, he durst attest it, by oath, and professeth br: Cheever lyeth under much guilt, in saying he remembers it not. Br: Cheever was also minded, that in a like case between Richard Perry and Mrs. Pell, there remains an impression to this day upon the spirits of some of the brethren (and probably br: Cheever himself is one of them,) that R. Perry is guilty. Br: Cheever replied that he knew no such thing by himself. He was told that this charge of the brethren, being Clerks, and that they have nothing to do now but to say Amen, imports two things, first, that the Elders usurp a lordly power over the Ch:, which is neither granted, nor allowed by Christ. Secondly, that the brethren are weak and childish, either wanting light, or wanting courage to improve their light, about the affairs of Christ, in his Ch:, and in both respects the charge is great and heavy, he was therefore wished either to instance and prove, or to let fall and clear, but he refused to do either. He was told, that this notion or prejudice against the whole Ch: hath been (it seems) so long entertained and cherished in his bosom, so often vented in a whispering way, and (beside the hurt to others) hath made so deep an impression upon his own spirit, that he can now hardly part with it. But upon this discovery, the Ch: now expect and require that he either convince or acquit both officers and brethren, or they must think of a higher censure, to suit this slander and contempt persisted in. Br: Cheever replied, that he agreed with the

Ch. that the preparing work belongeth to the Elder's office, he did not in that respect charge them with usurpation. The ruling Elder asked him, in what other respect he did charge them with usurpation, and desired to know his ground, why the brethren are now but Clerks, if he could give no ground, it would appear that he vented this slander out of malice. Br: Cheever denied that he had done any thing out of a malicious frame, but said, he thought his ground was a passage in Mrs. Eaton's case. It was expressed when she was to come to the Ch: that she must not come, till the Elders were first satisfied. It was replied, this instance is neither sufficient nor true. The Officers propounded, and consented to her coming, but a question then falling in about the Officers preparing work, wherein himself and some others dissented from the rest of the brethren, the Ch: acting freely, and according to their light, the major part by far declared and voted, that they would not have her come, till she had first applied herself to the Elders. Hereupon sundry of the brethren declared themselves offended with br: Cheever for laying a false ground to bear up a slanderous charge.

Our Teacher asked him whether he had not voted with the Ch: to clear the Elders of usurpation, he answered, that he knew not that the vote was put under that notion of usurpation, he was told that the vote was put under that express notion and word, and was therefore desired to declare himself, whether he did yet clear the Elders of usurpation, but he refused to do it. So that as the Lord's day last he left the Elders under a suspicion of partiality, so he doth now of usurpation. Hereupon the Governour said, that about the entrance of those agitations one of the Elders had compared bro: Cheever's carriage to that of Korah, and himself saw not any great difference, only Moses was a Magistrate, and both Moses and Aaron were called immediately, whereas the Elders are now called mediately to their office, and so to be rulers and overseers of the flock.

But br: Cheever in his rising against them in effect saith, you take too much upon you &c., and will not shew wherein, that they may clear themselves, or see their evil. Br: Cheever was again desired to give some satisfying reason, why he could not clear the Elders of usurpation; he answered, he thought the brethren had not their due liberty to act according to the light of their own consciences, and to dissent when they wanted light. The Ruling Elder asked him, who hindered them of their due liberty, and told him that his speeches applied to the case import that the Ch. is brought into bondage, whereas the brethren have ever had their full liberty to speak according to the rules of order and edification, and more can neither safely be expected nor granted in a church. Br: Cheever neither retracting, nor giving any answer, our Teacher and sundry of the brethren told him, they had been often and long grieved by, and for him, his offensive carriages, both in the private meetings of the Ch. and in the public assembly, as himself well knew, had been afflictingly burdensome to them, they had for a long time observed and witnessed against his contradicting, stiff, and proud frame of spirit, they feared God had a controversy with him, wondered what it would come to, and what God would do with him. After a long debate without any fruit appearing in the spirit and carriage of br: Cheever, when he could neither be drawn to take off the charge, nor to instance in any particulars, which being opened might have been cleared before the assembly, but did obstinately persist in fastening a slanderous reproach upon the officers and brethren, the Ch. proceeded to censure, and upon a serious consideration of his miscarriages, in the nature and compass of them, this last making the rest full, and heaped measure, by vote ordered, that he be cast out of the body, till the proud flesh be destroyed, and he be brought into a more member-like frame.

The Answer of Ezekiel Cheever to the former Charges.

To. 1. To the gesture of holding down my head and wrapping my handkerchief about it, I did then, and do still impute it to the aching of my head as the cause of it, though I cannot clearly remember it, upon these grounds. 1. I know no other cause of it. 2. I do know I am constantly troubled with violent pain in my head in hot weather, when my mind and intentions are seriously fixed, as I have observed most usual on the Lord's day in the evening, and after church meetings, and to mitigate my pain I have been wont to hold my head straight with my handkerchief, as a fillet, finding some little ease by it, and yet have purposely avoided holding down my head long, but have oft looked up, that I might not seem to sleep. 3. When I came home that Sabbath in the evening, (when these gestures are testified to be acted, viz, 13th of 3d month, when I did not join with the vote to clear the Elders,) my wife tells me I complained of pain in my head, nor is the smiling after objected so unsuitable, but it may well consist with that, and greater pain also. For the smiling or laughing, I know neither the thing, nor any cause of it, nor whether there was any more than a natural ordinary cheerfulness of countenance seeming to smile, which whether it be sinful, or avoidable by me, I know not, yet upon certain clear testimony, I shall judge myself for any such unseemly gestures, as having appearance of that evil charged, though I know they arise, not from lightness, but overseriousness and vehemency of spirit, and too much activity, at other times discovering itself in unseemly motions of body, somewhat whereof might appear at this time, though I remember no such, nor occasion of them. I desire to be humbled for the least appearance of evil, and occasion of offence, and to watch against it. Yet notwithstanding that there was such excess that way, as the charge seems to carry, I cannot be convinced upon these grounds. 1. Many,

(more than witness against me,) that were near me on both sides, and before me, and did observe me, took no notice of any uncomely gestures, and are unsatisfied, and troubled at the carriage of the thing. 2. None have manifested openly their taking notice of, or offence at any such gestures in me, only those 4 that witness, though it be said, they were offensive to the Church. 3. One alone, viz, William Basset, did publicly affirm, my carriage was like a stage-player, (and that to the grief and offence of sundry, though not publicly manifested,) though it be said, 3 affirmed it. I have spoken to the other 3 witnesses, and they all deny it.

To. 2. The Elders did require the vote, and it was put upon the Church without any foregoing agreement to it, nay it was objected against. 2. I know no rule warranting, much less requiring such a vote upon such an occasion, tending to put men upon unsafe practises, or to betray themselves, if they had any doubts or scruples in their consciences, though they had never manifested them to any. 3. I know no order appointed by Christ, that the Church shall require every member to act with them in every vote, or in this in particular, when they want light, and so no breach of order in withdrawing from it. 4. I know no sin in refusing to clear the Elders and Ch:, or either, from partiality and usurpation, when the rule of the word doth not require it of me, nor can I with a good conscience, the grounds and reasons whereof I am ready to manifest, and to offer to the judgment and consideration of any of the Churches of Christ, when God shall be pleased to afford that mercy unto me, for my relief in my present afflicted condition. 5ly. The public discovery of this, and open laying them under suspicion, I would gladly have prevented, and therefore did not hold up my hand to the negative vote, when I could not in conscience to the affirmative, but being observed by some of the brethren I was called to account and forced to do what I did. Many

rules are alledged to be broken by me, and the fact highly aggravated, but I see not that evil in it, nor shall I, till my grounds of refusal are removed, which yet are not, though before and since I have often heard what answer is given to them, nor see I any likelihood that ever I shall have them all satisfied, though I am still willing to hearken if any thing further may be said to them.

To. 3. I did apprehend that my answer in the private meeting of that Ch. did satisfy, and so the 2 other brethren, who gave the same answer, apprehended with me; I spake according to my apprehensions, nor am I yet convinced that my apprehensions were false. The proof that is brought is, that sundry brethren were unsatisfied, and the ruling Elder expressed himself not satisfied. To which I answer, 1. If men be inwardly unsatisfied, and express it not, I know not that. 2. The Elder and some other expressed dislike that we used those words, they had walked according to their light, which implied our not approving the Elders' light in the cases in question; but it was never put to the Church then, nor since, to know whether our answer did satisfy, and if those brethren had expressed themselves not satisfied, yet I conceive they are not the Church, the rest being silent I did take it they were contented with it. But whereas it is after said, sundry expressed themselves not satisfied, and I was wished further to consider of it; I apprehend it is a mistake, that was at another meeting, and upon another occasion, viz, W. Thorpe's accusation, and my answer to it; but this particular was not named, nor did I ever think to hear more of it. Lastly, if in the event my apprehensions were discovered to be false, yet I cannot see sin in them, because so to apprehend of them, was (in my conscience the answer being satisfying as the case stood,) to think well of them, which, the contrary not evidently appearing, by the law of love I am bound to.

Concerning offences in the meeting.

I am charged with offences of a very high nature, but searching into the particulars and rules for conviction, I am not able to discover that which is apprehended in them. The substance of all is maintaining a doubtful disputation, and a dangerous error. To which I answer, 1. Though the opinion be acknowledged a doubtful disputation wherein difference in a Church may be tolerated, yet is not that only denied me, but even that moderation and means for conviction with forbearance, which might be expected in a greater matter than this. For I was called forth to public censure, without any private dealing with before by the Church, or Elders, either to hold forth light to me, or to hear what I could say for myself; the like I think was never practised towards any censured by N. H. Church, though for most evident scandalous sins; nay I did not so much as know that a censure was intended against me.

2ly. When I was called forth to censure, and the charges read against me, though sundry scriptures are alledged, yet I understand none either brought or intended to confute the error, only 2 to show that whispering is forbidden in the members of the Church, and in heathen, which I never did, and hope never shall deny; so that I conceive, I am censured without sufficient means for my conviction, and light held forth to reclaim me from the conceived error in my judgment. 3dly. I have given the grounds of my opinion to the Teacher in writing, entreating an answer from him; but I have not yet received it, nor any promise that I shall, so I still wait for and expect conviction from the Church.

But to speak to some particular passages, where need is. In. 1. That the drift of my speech to the first question was to strengthen this opinion, is not so, for I had neither thoughts nor intentions of any such opinion to be spoke to then; it fell in accidentally, in speaking to another question propounded after this first of love. For the word

(express rule) I said, or meant, a clear rule from the word, which is either in express words, or by sound consequence: Why any thing here did unsatisfy any, I know not, none ever told me so, nor was there any thing spoke as I know, nor is here alledged but clear truth.

In. 2. The reason of my seeming strange to their motion for debate of a question I desired (they said) might be further spoken to, was because I knew not of any such desire of mine expressed to them, nor was I willing to enter into any more debate about it, though I could not be ignorant of the agitation of the question the meeting before.

In. 3. The reason of my alledging the authority of others (yet without names) was to remove the odiousness they would fasten upon the opinion, as if no godly man would hold it, one saying he would not live in such a place where it was practised according to it.

In. 5. The text charged to be perverted by me was alledged to prove that some sins, though of a gross nature, God suffers to lie secret his own time.

In. 6. I mentioned W. Plaine's case, as an instance, for he had committed some of his filthiness, some years before he was discovered, as for the Court's censure upon him, I knew not their proof, and therefore would not meddle with it, but they still pressing upon me the practise of the Court, I was forced to reply, that would not carry the cause if it were so, and said, is this a good argument, the Court hath done it, ergo it is a truth. Wherein I see no reflection upon authority, nor slight speaking of them, I know I did studiously avoid it; nor indeed did the Court proceed upon such witnesses apart, as is pleaded for, for he confessed the evils charged upon him.

In. 7. I put off that instance, because I would not further provoke their spirits, and for the same reason refused to declare myself of a settled judgment in the point; nor was I any otherwise confident in it than maintaining it without yielding to their apprehensions in it, and unless

I hear more than I yet have, I doubt I shall not alter in it. Only whereas it is said in relating my answer, I alledged 18 Mat: for all cases of whispering, I did except capital matters by God's ordinances to be punished by the civil Magistrate, and intended it only for Church-dealing, where every member hath power in his own hand given him by Christ for healing such private evils.

I am further charged, that I did not sufficiently witness against whispering. But that I did witness against whispering, and show the way of dealing with it by 18 Mat: they cannot deny, and I did speak much more against it than they have related.

The heavy charges that are laid against me, of not honoring God's wisdom, and teaching men to sin, with the judgment following such, I hope I am free from the guilt, and through God's mercy shall be from the judgment; however for the present not being convinced, I cannot fall under them. Yet this I shall say, and did of my own accord in the close of the last meeting, that seeing it was so offensive, and some weak persons there, I was sorry I had discovered myself so in it, and saw it contrary to Rom. 14: 1. And I now see, considering all circumstances, I missed the season, and in that respect my discourse was not edifying; though the tenent itself, I yet look upon as the truth of God.

Concerning offensive words, &c.

William Thorpe had discovered upon advice to the Ruling Elder, that myself, and 3 other brethren, had spoke such and such words to him alone at several times. Whereupon the Ruling Elder came with him to me, and read those two charges made against me by W. Thorpe. The thing being sudden and strange, and at the first sight to me an evident breach of rule 18 Mat: I witnessed against it, and gave this answer, I would neither affirm nor deny what he said, but desired further to consider of it, and to speak with W. Thorpe alone, for I knew I had such notions in my mind,

but did not remember that I spoke so to him. The next day, without any farther speaking to me, or signifying such a thing, the matter was brought to the Church, and I being called forth gave and stood to the same answer which the ruling Elder before had wrote from me, witnessing against W. Thorpe's carriage in it, which did unsatisfy some of the brethren. After sundry meetings taken up about W. Thorpe and other offences, seeing more offence and trouble like to come upon me, I answered, I could not remember what he laid to my charge, which answer better satisfied them than the former, and some what allayed the offence, that I had liberty to come to the Lord's supper the Sabbath following, which otherwise I had been deprived of. Yet notwithstanding this, though no other proof was known against me, when W. Thorpe was censured, his accusation against me was read in the mixed assembly, and the next Sabbath, I being called forth for the former matters, this accusation again was read against me, and I required to answer, and gave the same answer I did last in the private meeting, viz, I did not remember that I had spoke such words, or to such purpose to him at any time. Hereupon W. Pecke informed against me that I had spoke such words to him alone; but in a sinful way, for he never dealt with me in private, according to 18 Mat: though he had told me once, many weeks before, that he apprehended such passages were between us, and himself agreed with me in unsatisfiedness concerning carriage in Mrs. Eaton's case, but he said he would not witness against me if he could help it; I told him he had no rule for it, nor could be a witness as he related things to me, for he did then, and hath since before two brethren declared, that he was clear I used the word Clerks, but how I applied it he was not clear, nor could certainly say I affirmed it of the Church: so that I apprehend he is no witness in that particular, according to the Church's judgment in case of whispering. But because the thing was taken for fully proved, and

would be thought I could not be wholly ignorant whether I had had such notions, or thoughts in my mind, or no, and that I guilefully went about to hide my sin, (when as I saw no such sin, viz, slanders as the Church charged, in it,) I did acknowledge, I had had such a notion in my head, viz, of Clerks, but did not acknowledge (for I remember it not, nor is the proof sufficient,) that I spoke so to either of these persons testifying against me; though it is likely I did, because I had such a notion in my head, and therefore I never did, nor durst deny it, though the contrary be affirmed. And the ground of such a notion, to my remembrance, I declared was the carriage in Mrs. Eaton's case, that it was concluded she should not come to the Church till the Elders were satisfied. Whereas it is replied this instance is not true, nor sufficient, for the truth of it, I can prove it, it was a public and known case. Mrs. Eaton after she had long endeavoured with the Elders to give them satisfaction, and could not attain it, apprehending invincible laws laid in her way, did desire and importune to come to the Church, at last the Elders yielded to propound her desire themselves to the Church, but withal that themselves were not satisfied, and declared to the Church their objections, and desired their judgment in them; whereupon finding some brethren not concurring with them, and sundry inclining for her coming notwithstanding, it was unsatisfying that way was given, they not being satisfied; there was therefore an agreement that she should come before the Church, but under the notion of coming before the Elders, only the Church should be present, and such as would speak for her conviction to further her repentance might, but any dissenting brethren were to refrain and afterwards in her absence to propound their doubts. The meaning whereof was this, that the brethren of the Elders' apprehensions might have liberty to speak, the dissenting brethren not. This did not satisfy Mrs. Eaton's desire, and therefore she accepted it not. At last it was voted and

concluded by the major part, that she should not come till the Elders were satisfied; not, till she had applied herself to them, as the charge implies, for that had been done long before to her utmost, as she professed, and the Elders thought they could do no further good to her, imputing it to her prejudice, this I apprehended, was so to subject the Church to the Elders, that they had nothing to do in this case but to consent with the Elders, or to say Amen, and till they are satisfied, they must not, or will not meddle with her. This did not satisfy me, nor did I see how the Church could by rule refuse her so just and reasonable request of offering her repentance to their judgment, desiring help from them where she came short.

For the speech concerning Mrs. Eaton, though I remember not that neither, nor do acknowledge it proved against me, yet it is known I am unsatisfied in this, that she is charged with striking her mother (upon the face,) that part of it, upon one testimony; that it hath been so pressed upon her at least to suspect herself, made an objection to hinder her coming to the Church, though she had professed she certainly knows she did not strike her upon the face, but the breast. This I have thought, and possibly may have said, the Church had more need to give her satisfaction in this particular, than to require it of her; wherein I see no slander, much less of a high nature.

Robt: Hill is no witness in this case, he spake doubtfully, and without rule, as the rest, never having spoken word to me in private, and being since spoke to, I am told, he said, he did not think he was taken for a witness.

As for my answer to the Teacher's question, whether I had not voted with the Ch: to clear the Elders of usurpation, it is I conceive true, it was not put under that notion in the private Ch. meeting, but placed upon that which was conceived to be the ground of it, viz, the Elders' preparation, wherein myself, and some other brethren formerly doubting in a particular, did concur: if his question had

reference to the mixed assembly, where partiality and usurpation were joined together in one vote, then in withdrawing from one, I did from both, and both were intended by me.

For my backwardness to produce instance and proof on my behalf, I was indeed slow to it, as not seeing any likelihood of good effect by it, nor so prepared for it as I might have been, being suddenly without forewarning called forth as if so conceiving it would be apt to multiply offence. Yet being pressed somewhat I did speak, naming the head of what I have with grief apprehended to be true in some particular, viz, that the brethren had not their due liberty to act according to the light of their own consciences; and the answer given is, that they have ever had their full liberty to speak according to the rules of order and edification; but that must be understood in the Elders' judgment, for if they think contrary, though amiss, the brethren are rebuked, which doth impeach their true liberty, and makes them afraid to speak when they apprehend they have just cause.

Whereas in the close, I am charged with a stiff, proud, contradicting frame of spirit, I humbly entreat the particulars wherein I have differed may be produced, and offered to the judgment of the godly, I spoke not but out of conscience in a righteous cause (as I think) when I could not be silent; I must act with the Church, and (which is uncomfortable) I must either act with their light, or may expect to suffer, as I have done, and do at this day for conscience sake; but I had rather suffer any thing from men, than make shipwreck of a good conscience, or go against my present light though erroneous, when it is not discovered. And I look upon it as a mercy, and answer of many prayers, that notwithstanding many temptations I have conflicted with in that kind upon such occasions, the fear of men hath not prevailed above the fear of God. I do not go about wholly to free myself from blame in my

carriage, and in these particulars, human frailty and infirmity I do see and bewail, as too much lightness, in that word Clerks, want of wisdom and coolness in ordering and uttering my speeches, but for that slander, or grossness in it to be equal to Miriam's sin, or to deserve such a censure, I cannot yet see it, and though the Ch: by the major part, (a considerable part, near half as I am informed, dissenting,) hath inflicted it, I cannot look upon it as dispensed according to the rules of Christ. Yet I wait upon God for the discovery of truth in his own time, either to myself, or church, that what is amiss may be repented of and reformed, that his blessing and presence may be among them and upon his holy ordinances rightly dispensed, to his glory, and their present and everlasting comfort, which I heartily pray for, and am so bound, having received much good and comfort in that fellowship, though I am now deprived of it.

Q. Whether 2 witnesses testifying the same kind of words or actions at several times, known to each of them severally, and apart from each other, be sufficient proof?*

It must necessarily be understood that in this question

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* The arguments of Mr. Cheever in this postscript seem to have given the fathers of New Haven some uneasiness. Mr. Davenport writes to his friend Rev. John Cotton, of Boston, May 6th, 1650, as follows, (the entire letter is printed in the "History and Genealogy of the Davenport family," by A. B. Davenport, p. 343.) * * * "One thing more give me leave to propound, and as earnestly as my modesty will permit, to importune, that you would take into your serious thoughts the question about single testimony of several persons who speak fully to the things and with concurrence therein, though not jointly in the circumstances of time and place, and to answer that logical quirk which Mr. Prudden told you of, and what other arguments you find in that postscript of Mr. Cheever, his answer to the church, and which you have elsewhere met with."

Note also the provision, with respect to evidence, in the New Haven Code of 1656, reprinted in New Haven Colonial Records, ii: 572.—C. J. H.

that kind of proof is only insisted on, which is by witness, not denying any other proof to be good, but only setting it aside in this question, the difficulty is whether 2 such witnesses be truly double proof?

The Negative is built upon these grounds following.

Grounds premised appearing to be undeniable truths.

1. No man is guilty, and punishable for sin by man, but by an act of sin, one or more committed by him, and proved against him.

2. Every act of sin proved against him by witness, must be by two at least, Deut., 19: 15, Mat., 18: 16.

3. Every act of sin hath these inseparable circumstances joined with it, time and place in particular, (hic et nunc.)

4. One and the same individual, particular act of sin, cannot be committed in two particular distinct times and places.

From these grounds arise these arguments and reasons following.

1. If two such witnesses prove no act of sin, then they are not sufficient.

But they prove no act of sin, ergo, they are not sufficient.

The proposition is proved from the first ground: A man is not guilty before man, but by acts of sin.

The assumption is evident. They must either prove two several acts, which they severally witness, or but one only: But they do neither; not two, for one hath no knowledge of what the other affirms, nor can give testimony to it, it may be true, or false for aught he knows; nor one only, for they two do not mutually witness to each other's testimony, but each for himself, so that each act of sin alledged by them hath but one witness only, and so is not proved.

2. Those witnesses which agree not, are not sufficient.

But two such witnesses agree not. Ergo.

The proposition is proved from Mark, 14: 56, 59. 1

John, 5: 8, their witness must be (ἴσα) equal, agreeing, jumping just together, like two parallels, or weights alike, they must witness one thing in the particular, for the kind hath not existence but in the individual.

Assumption is proved. They agree not. 1. In inseparable circumstances, which many times add great weight to the case, and without the knowledge of them there cannot be a just proportion of punishment to the sin. 2. Their not agreeing in these circumstances being inseparable, doth demonstrate that they agree not in the substance, from the 3rd and 4th ground, and so they agree not at all, and do not give any proof to each other. Which may further appear thus. If they agree in the same particular substance, viz, particular act, or speech, or word, which they both bear witness to, then if what one affirms be true, what the other affirms must needs be true also, for it is one; and if what one affirms be false, what the other affirms must be false also; they must necessarily stand and fall together. But this is not so, for one may speak truth, and the other speak that which is false, therefore they do not agree in the substance, they speak not one thing, for one thing cannot in the same respect and sense be both true and false.

3. If 2 such witnesses agreeing in the same kind of sin, though not in the particular act, be sufficient, then whatever other difference there is, it will not hinder. As suppose, they charge a man with slander or whispering in the same words, but against two several men, why should it not be proof, they testify one thing, that is whispering; nay, though it were different kinds of slander, as calling one man liar, another deceiver, it may be said to be one, it is slander, or whispering; and so in any other sin, stealing for instance, if they charge a man with stealing from several men, and in several ways, from one man by defrauding in bargaining, from another by unjust withholding his goods, it is both stealing, why should it not be just

proof; so for time, if there be never so many years distance between the acts they testify of the same kind, it is but a circumstance, it must not hinder the proof. I see not what just ground can be given to maintain a difference in the particular act to be no impediment to due proof, and not to allow it further, to a difference in the particular object, viz, persons to whom wrong is done, or special kind of sin also, so there be agreement in the general kind, viz, breach of the same command. For, though the difference may be said to be greater in one than the other, yet the arguing force in the nature of it, though not in degree, is alike. For it is but probable in both, and therefore not sufficient. He that hath slandered a man to one man must not necessarily be concluded to have done it to another; nor doth one evince the other; it may be probable. And so it is also probable, that he that wrongs one man in his name, or state, may wrong another man; and he that wrongs a man in his name in one kind, may do it in another: but this is not certain proof, a matter established, as that which is testified by two witnesses every way agreeing by God's ordinance is accounted to be.

4. This opens a gap for false witnessing. For two such witnesses if false cannot be so easily detected as two other witnessing together, which is thought to be a reason of God's appointment of two witnesses. Besides it gives encouragement to unjust public accusing of men for private offences upon one witness, in hope another such witness may come in: and for such a witness contrary to Mat. 18, to give in public evidence against a man for private sin, as experience hath shown.

Ob. Then there is no way of punishing that malignant sin of whispering.

Ans. 1. Many vile sins destructive to the Commonwealth are never punished, because never discovered, yet none will blame God's providence that they are not brought to light. 2. Whispering, when it can be no otherwise proved, is not

discovered for punishment, but is in that respect yet a secret sin. 3. Whispering is capable of proof, in the nature of it, as well as any other sin, he that slanders in the hearing but of one, can and may do it in the hearing of two together. The evil is the same, though the name and notion (and that not necessarily neither) may differ. 4. If men attend God's rules, the whisperer can do no man hurt in the event, for he ought to be rebuked and not to be believed, and then the person's name is not hurt, but in the whisperer himself. Lastly, whispering, when proved, as other sins, may be punished according to the nature of it, but neither that, nor any other sin, though of a more heinous nature, can be punished by man, when not duly proved. And in this case to vary from the general rule, without allowance from the word, will not be safe nor acceptable in the sight of God.

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